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Section #

PATENT  
Attorney Docket No.: SCRIP1300-3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Harper et al. Art Unit: 1645  
Application No.: 09/938,842 Examiner: Unassigned  
Filed: August 24, 2001  
Title: STRESS-REGULATED GENES OF PLANTS, TRANSGENIC PLANTS  
CONTAINING SAME, AND METHODS OF USE

**BOX MISSING PARTS**

Commissioner for Patents  
Washington, D.C. 20231

**RESPONSE TO NOTICE TO FILE MISSING PARTS**

Sir:

In response to the Notice to File Missing Parts of Nonprovisional Application mailed  
October 29, 2001, enclosed are:

1. One (1) copy of the Notice to File Missing Parts of Nonprovisional Application (6 pages);
2. One (1) executed Declaration For Patent Application (5 pages);
3. Two (2) Powers of Attorney by Assignee (4 pages);
4. Statement Under 37 CFR §§ 1.821(f) and (g) (1 page);
5. One (1) CRF Disk;
6. Check No. 497030 in the amount of \$2,688.00; and
7. Return Receipt Postcard.

CERTIFICATION UNDER 37 CFR §1.8	
I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date, December 31, 2001, in an envelope addressed to: Box MISSING PARTS, Commissioner for Patents, Washington, D.C. 20231.	
Aldon Griffis (Name of Person Mailing Paper)	
Aldon Griffis (Signature)	December 31, 2001 (Date)

In re Application of:  
Harper et al.  
Application No.: 09/938,842  
Filed: August 24, 2001  
Page 2

PATENT  
Attorney Docket No.: SCRIP1300-3

Applicants claim large entity status in the above-identified application.

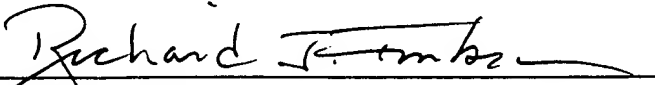
The filing fee has been calculated as follows.

	Number Filed		Number Extra		Rate			Fee	
					Small Entity	Large Entity		Small Entity	Large Entity
Total Claims	79-20	=	59	X	\$09	\$18	=	\$ .00	\$1,062.00
Independent Claims	12-3	=	9	X	\$42	\$84	=	\$ .00	\$ 756.00
Multiple Dependent Claims Presented: ____ Yes ____X____ No					\$140	\$280		\$ .00	\$ .00
BASIC FEE								\$ .00	\$ 740.00
TOTAL FEE								\$ .00	\$2,558.00

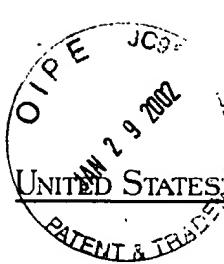
Enclosed is Check No. 497030 in the total amount of \$2,688.00; which consists of \$740.00 for the filing fee; \$1,062.00 for 50 additional total claims over 20 claims; \$756.00 for 9 additional independent claims over 3 independent claims; and \$130.00 for the surcharge fee. The Commissioner is hereby authorized to charge any other fees that may be associated with this communication, or credit any overpayment to Deposit Account No. 50-1355. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Date: December 31, 2001

  
Richard J. Imbra  
Registration No.: 37,643  
Telephone: (858) 677-1496  
Facsimile: (858) 677-1465

**USPTO CUSTOMER NUMBER 28213**  
GRAY CARY WARE & FREIDENRICH LLP  
4365 Executive Drive, Suite 1100  
San Diego, California 92121-2133



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www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/938,842	08/24/2001	Jeffrey F. Harper	SCRIP1300-3

CONFIRMATION NO. 1099

## FORMALITIES LETTER



\*OC000000006990942\*

Lisa A. Haile, J.D., Ph.D.  
GRAY CARY WARE & FREIDENRICH LLP  
Suite 1600  
4365 Executive Drive  
San Diego, CA 92121-2189

Date Mailed: 10/29/2001

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

02/04/2002 BABRAH1 00000012 0938842

01 FC:101	740.00 OF
02 FC:105	130.00 OF
03 FC:103	1062.00 OF
04 FC:102	722.00 OF

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- o The statutory basic filing fee is missing.  
*Applicant must submit \$ 710 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- o Total additional claim fee(s) for this application is \$1782.
  - \$1062 for 59 total claims over 20.
  - \$720 for 9 independent claims over 3 .
- o The oath or declaration is unsigned.
- o To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- o **The balance due by applicant is \$ 2622.**
- o A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216

- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at [patin21help@uspto.gov](mailto:patin21help@uspto.gov) or [patin3help@uspto.gov](mailto:patin3help@uspto.gov)

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*A copy of this notice MUST be returned with the reply.*

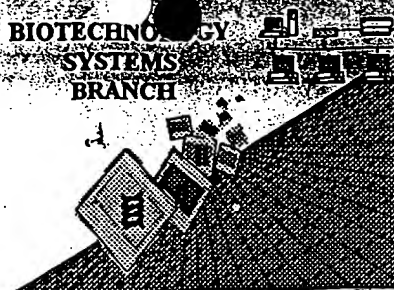
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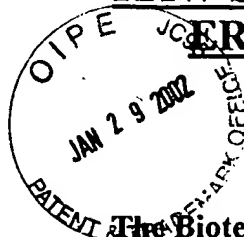
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



# **RAW SEQUENCE LISTING ERROR REPORT**



The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors when processing the following computer readable form:

Application Serial Number: 09/938,842

Source: OIPE

Date Processed by STIC: 9/13/2001

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**THE ATTACHED PRINTOUT EXPLAINS DETECTED ERRORS.**

**PLEASE FORWARD THIS INFORMATION TO THE APPLICANT BY EITHER:**

- 1) INCLUDING A COPY OF THIS PRINTOUT IN YOUR NEXT COMMUNICATION TO THE APPLICANT, WITH A NOTICE TO COMPLY or,
- 2) TELEPHONING APPLICANT AND FAXING A COPY OF THIS PRINTOUT, WITH A NOTICE TO COMPLY

**FOR CRF SUBMISSION QUESTIONS, PLEASE CONTACT MARK SPENCER, 703-308-4212.**

**FOR SEQUENCE RULES INTERPRETATION, PLEASE CONTACT ROBERT WAX, 703-308-4216.**

**PATENTIN 2.1 e-mail help: [patin21help@uspto.gov](mailto:patin21help@uspto.gov) or phone 703-306-4119 (R. Wax)**

**PATENTIN 3.0 e-mail help: [patin3help@uspto.gov](mailto:patin3help@uspto.gov) or phone 703-306-4119 (R. Wax)**

**TO REDUCE ERRORED SEQUENCE LISTINGS, PLEASE USE THE CHECKER VERSION 3.0 PROGRAM, ACCESSIBLE THROUGH THE U.S. PATENT AND TRADEMARK OFFICE WEBSITE. SEE BELOW:**

## **Checker Version 3.0**

The Checker Version 3.0 application is a state-of-the-art Windows based software program employing a logical and intuitive user-interface to check whether a sequence listing is in compliance with format and content rules. Checker Version 3.0 works for sequence listings generated for the original version of 37 CFR §§1.821 – 1.825 effective October 1, 1990 (old rules) and the revised version (new rules) effective July 1, 1998 as well as World Intellectual Property Organization (WIPO) Standard ST.25.

Checker Version 3.0 replaces the previous DOS-based version of Checker, and is Y2K-compliant. Checker allows public users to check sequence listings in Computer Readable form (CRF) before submitting them to the United States Patent and Trademark Office (USPTO). Use of Checker prior to filing the sequence listing is expected to result in fewer errored sequence listings, thus saving time and money.

**Checker Version 3.0 can be down loaded from the USPTO website at the following address:**

**<http://www.uspto.gov/web/offices/pac/checker>**



OIPE

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## RAW SEQUENCE LISTING

PATENT APPLICATION: US/09/938,842

DATE: 09/13/2001

TIME: 16:32:16

Input Set : N:\paola\09938842.txt

Output Set: N:\CRF3\09132001\I938842.raw

Does Not Comply  
Corrected Diskette Needed

1 <110> APPLICANT: Harper, Jeff  
 2 Kreps, Joel  
 3 Wang, Xun  
 4 Zhu, Tong  
 6 <120> TITLE OF INVENTION: STRESS-REGULATED GENES OF PLANTS, TRANSGENIC PLANTS  
 CONTAINING SAME, AND *methods of use*  
 7 METHODS OF USE  
 9 <130> FILE REFERENCE: SCRIP1300-3  
*QC* 11 <140> CURRENT APPLICATION NUMBER: US/09/938,842  
 11 <141> CURRENT FILING DATE: 2001-08-24  
 11 <150> PRIOR APPLICATION NUMBER: US 60/227,866  
 W--> 12 <151> PRIOR FILING DATE: 2000-8-24 *2000-08-24*  
 14 <150> PRIOR APPLICATION NUMBER: US 60/264,647  
 W--> 15 <151> PRIOR FILING DATE: 2001-1-16 *2001-01-16*  
 17 <150> PRIOR APPLICATION NUMBER: US 60/300,111  
 W--> 18 <151> PRIOR FILING DATE: 2001-6-22 *2001-06-22*  
 20 <160> NUMBER OF SEQ ID NOS: 5379

*use this date format*

## ERRORED SEQUENCES

15509 <210> SEQ ID NO: 304  
 15510 <211> LENGTH: 421  
 15511 <212> TYPE: DNA  
*italic* 15512 <213> ORGANISM: Arabidopsis thaliana  
*plain* 15514 <220> FEATURE:  
 15515 <221> NAME/KEY: N\_region  
 15516 <222> LOCATION: (3)..(3)  
 15517 <223> OTHER INFORMATION: n = any nucleotide  
*7-22-01* 15519 <400> SEQUENCE: 304  
 E--> 15520 acg tgg ctttcgagcg gccgccggg caggtaacc acctttatta ccattcaggt  
 E--> 15522 ttcagaacct aggtgagatg atgactcttg gaagatatca ttctgtata tccccaagtt  
 E--> 15524 tcattgaagg gcttaccctt gaagtttcaa ttggtcacgc agcgagaaaa ctggcgatt  
 E--> 15526 tgattagact tccaactgat gaaccccggt ttaaggtcgg aatcagttgg ttgtctaat  
 E--> 15528 ctgctgttga ttcaattgct ttacttcaga gcaatctaac caaggttttg tctggttctt  
 E--> 15530 gatctccggt tgttttgctt tggagattaa ttcgcttcg tatgaaagac aaatggggag  
 E--> 15532 tgccctttg taccctttat tgggaatatcc ttgtattaaa aaaaaaaaaa aaaaaaaaaa  
 E--> 15534 a  
 89510 <210> SEQ ID NO: 1784  
 89511 <211> LENGTH: 467  
 89512 <212> TYPE: DNA  
 89513 <213> ORGANISM: Arabidopsis thaliana  
 89515 <220> FEATURE:  
 89516 <221> NAME/KEY: N\_region  
 89517 <222> LOCATION: (3)..(3)  
 89518 <223> OTHER INFORMATION: n = any nucleotide  
 89520 <400> SEQUENCE: 1784  
 E--> 89521 acg att ggggttacag ttactagac cagatgtggg ggggtttggg tacaaaaggg

60 57  
 120  
 180  
 240  
 300  
 360  
 420  
 421

*nos. off*

60 57

*same error*  
 file://C:\Crf3\Outhold\VsrI938842.htm

9/13/01

## RAW SEQUENCE LISTING

DATE: 09/13/2001

PATENT APPLICATION: US/09/938,842

TIME: 16:32:24

Input Set : N:\paola\09938842.txt

Output Set: N:\CRF3\09132001\I938842.raw

E--> 89523 ccagactggt ttctgaagtt gcaaaatgga aaaactgac agcaggcggg ataggacggg 120  
 E--> 89525 gctggtccac aggctacagc ctacagggtg atcatacata cctaaaacct ataatacagt 180  
 E--> 89527 taggcagata tagtagcctt acaagttaga actatctcaa ttcataagtc ccaagtcctt 240  
 E--> 89529 aagccctcct ttgccatggc tctttgtgaa actagcactt taagataatc gcattttctc 300  
 E--> 89531 tcatctcctt gggcctctca caaactaaat tttgtgggca acttcaatct tggtttctag 360  
 E--> 89533 tatatgtgca aagatattaa aatcagtata aaattagtta gtgttagtat ttggagttta 420  
 E--> 89535 taaattttaa aatatctact acttcaatca aaagtcgacg cggccgc 467  
 123106 <210> SEQ ID NO: 2469  
 123107 <211> LENGTH: 245  
 123108 <212> TYPE: DNA  
 123109 <213> ORGANISM: Arabidopsis thaliana  
 123111 <220> FEATURE:  
 123112 <221> NAME/KEY: N\_region  
 123113 <222> LOCATION: (3)..(3)  
 123114 <223> OTHER INFORMATION: n = any nucleotide  
 123116 <400> SEQUENCE: 2469  
 E--> 123117 *ncgi* tcg agcggcgcgc cgggcaggta ccaaaccgga aaatacagtc tcatactttt 60  
 E--> 123119 aagtttttct gtttcagagt aagagatgac tgctcttctt cctcttggtg aggaaaccat 120  
 E--> 123121 cttctccact taatttccat aatttcttg cttttagtaga gttacgactc cacttttttg 180  
 E--> 123123 cttcttgtaa tgtttctcta tttaaaaaaa accaaaaaaa aaaaaaaaaa aaaaaaaaaa 240  
 E--> 123125 aaaaa 245

nos.  
↓  
dk

same len

60 57



Use of n and/or Xaa has been detected in the Sequence Listing.  
 Review the Sequence Listing to insure a corresponding  
 explanation is presented in the <220> to <223> fields of  
 each sequence using n or Xaa.

## VERIFICATION SUMMARY

DATE: 09/13/2001

PATENT APPLICATION: US/09/938,842

TIME: 16:32:49

Input Set : N:\paola\09938842.txt

Output Set: N:\CRF3\09132001\I938842.raw

L:11 M:270 C: Current Application Number differs, Replaced Current Application No  
L:11 M:271 C: Current Filing Date differs, Replaced Current Filing Date  
L:12 M:256 W: Invalid Numeric Header Field, Wrong Prior FILING DATE:YYYY-MM-DD  
L:15 M:256 W: Invalid Numeric Header Field, Wrong Prior FILING DATE:YYYY-MM-DD  
L:18 M:256 W: Invalid Numeric Header Field, Wrong Prior FILING DATE:YYYY-MM-DD  
L:15520 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:304  
L:15520 M:254 E: No. of Bases conflict, LENGTH:Input:60 Counted:58 SEQ:304  
L:15520 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:2  
M:254 Repeated in SeqNo=304  
L:15534 M:252 E: No. of Seq. differs, <211>LENGTH:Input:421 Found:419 SEQ:304  
L:89521 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:1784  
L:89521 M:254 E: No. of Bases conflict, LENGTH:Input:60 Counted:58 SEQ:1784  
L:89521 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:2  
M:254 Repeated in SeqNo=1784  
L:89535 M:252 E: No. of Seq. differs, <211>LENGTH:Input:467 Found:465 SEQ:1784  
L:123117 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:2469  
L:123117 M:254 E: No. of Bases conflict, LENGTH:Input:60 Counted:58 SEQ:2469  
L:123117 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:2  
M:254 Repeated in SeqNo=2469  
L:123125 M:252 E: No. of Seq. differs, <211>LENGTH:Input:245 Found:243 SEQ:2469  
L:179888 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:3467  
L:205509 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:3913